

not to say: Well, everybody should be like Alaska. In the Constitution, the Founders gave the States the fundamental right and obligation and responsibility to design their States' laws in terms of voting. What is really difficult to swallow is that so many of the arguments we are going to hear this week and that we heard last week and that we heard from the President of the United States come from elected officials—U.S. Senators and the President, who is a former Senator—who come from States that have some of the most least restrictive voting laws in the country.

Again, it is not just me making this argument. This is an article I submitted for the *RECORD*, last week, from *The Atlantic* magazine—not a Republican mouthpiece by any measure. I am going to read extensively from this article, which came out last year, because it really makes the point I am trying to make.

Biden has assailed Georgia's new voting law as an atrocity akin to "Jim Crow in the 21st century" for the impact it could have on Black citizens. But even once the GOP-passed measure takes effect, Georgia citizens will have far more opportunities to vote before Election Day than their counterparts in the president's home state, where one in three residents is Black or Latino. To Republicans, Biden's criticism of the Georgia law smacks of hypocrisy. "They have a point," says Dwayne Bensing, a voting-rights advocate with Delaware's ACLU affiliate. "The state is playing catch-up—

The State of Delaware—in a lot of ways."

The article goes on:

Delaware isn't an anomaly among Democratic strongholds, and its example presents the president's party with an uncomfortable reminder: Although Democrats like to call out Republicans for trying to suppress voting, the states they control in the Northeast make casting a ballot more difficult than anywhere else.

I am going to read that again. I am going to read that again because it is an issue that no one is talking about, and it really smacks of hypocrisy when I see some of my colleagues down here making these great arguments about Jim Crow 2.0 in Republican States.

Here it is again, from *The Atlantic*:

Delaware isn't an anomaly among Democrat strongholds—

Democratic State strongholds—and its example presents the president's party with an uncomfortable reminder. Although Democrats like to call out Republicans for trying to suppress voting, the states they control in the Northeast make casting a ballot more difficult than anywhere else.

Then the article goes on to say:

Connecticut has no early voting at all—

Holy cow, my State has early voting. We have had it for years—

and New York's onerous rules force voters to change their registration months in advance if they want to participate in a party primary.

And, by the way, New York just rejected what Alaska has. Jim Crow 2.0 in New York? Who knows? Maybe, according to the President's logic.

The article goes on:

In Rhode Island, Democrats enacted a decade ago the kind of photo-ID law that the [Democratic] party has labeled "racist" when drafted by Republicans.

Hmm, a little bit of hypocrisy there.

The article goes on:

[T]he State [Rhode Island] also requires voters to get the signatures of not one but two witnesses when casting an absentee ballot (only Alabama and North Carolina are similarly strict).

The article goes on:

According to a new analysis released this week by the nonpartisan Center for Election Innovation and Research, Delaware, Connecticut, and New York rank in the bottom third of states in their access to early and mail-in balloting.

And, as I just said, New York just rejected it again. I really wonder if the majority leader is going to come down and call his citizens Jim Crow 2.0.

This is a very important issue, and here is the bottom line: Before any of my Democratic colleagues come to the floor this week with their insults, with their smug, offensive, inaccurate arguments about Jim Crow 2.0 racist traders, mimicking the President of the United States last week in Georgia, I want my colleagues to come and answer this simple question—a very simple question: Why should we listen to you? Why should any American take you seriously, when so many of you come from States with the most restrictive voting laws in America?

I wonder if any of my colleagues are going to come down to the floor, particularly those like the majority leader, who love to rant about Jim Crow 2.0 when their States are leading the charge in America on restrictive voting.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

#### H.R. 5746

Mr. DURBIN. Mr. President, this past weekend—and yesterday, in particular—we celebrated Dr. Martin Luther King, Jr. It is likely, if you attended any event in that celebration, that you heard at least part of his "I Have a Dream" speech. Many of us in the Chamber happily quoted it because of our respect for him and the eloquence of his language in that moment.

We like to remember the hopeful second half of that speech, as well, because Dr. King imagined a future in which Black children and White children play together, and all people are judged, as he so famously said, "not by the color of our skin but by the content of our character."

However, many of us forget—or worse, ignore—the first half of that speech, in which Dr. King noted the painful irony that 100 years after the Emancipation Proclamation—the "promissory note" of our Constitution and the Declaration of Independence was for most Black Americans simply "a bad check which has come back marked 'insufficient funds.'"

Many Democratic Senators and Republican Senators helped to change that shameful fact. It was here on the floor of this Chamber, in 1965, that the U.S. Senate voted 77 to 19 to pass the Voting Rights Act, outlawing State practices that denied millions of Americans, particularly Black Americans, the right to vote. It is worth noting that it was a strong bipartisan vote and that, percentagewise, a greater percentage of the Republican Caucus voted in support of it, compared to Democrats. The White Democrats from the South were notorious at that time for opposing it and opposing the civil rights movement.

Well, over the next nearly 50 years, the Voting Rights Act was reauthorized five times, and that bipartisanship continued during the entire period. Each new version of the Voting Rights Act renewed the promise and the protections of that law, and each reauthorization was signed into law by a Republican President.

Sadly, in more recent years, things have changed in an awful way. We have witnessed a sustained effort to chip away the protections guaranteed to every American under the Voting Rights Act of 1965.

I grew up in East St. Louis, IL, and a trip to St. Louis was a big deal. I can remember my mother, who was an immigrant to this country, had only an eighth grade education, though she had self-taught herself into a much higher level of learning, but I can remember my mother always pointing out the St. Louis courthouse to me. If you are familiar with the terrain, the arch wasn't there when I was growing up. But where that arch is today, just behind it, is this famous St. Louis courthouse. We would be driving over the Eads Bridge, and she would say to me: Now, do you see that St. Louis courthouse up there? That big white building, do you see it? And do you see all those steps that you can see from here?

Yes.

They used to sell slaves on those steps.

I found it incredible that my mom would say that. She was not a historian or, as I had mentioned, formally educated, but she knew that, and she knew that was the significance of that building. It was also the courthouse where the Dred Scott decision was argued.

I say that because the Dred Scott decision, that infamous decision handed down in 1857, may have been the tipping point when it came to our Civil War. A decision by that court, now viewed as nothing short of outrageous, basically ruled that enslaved people, regardless of where they lived in the United States, could never be treated as American citizens and had no right to sue in the Federal courts of America.

Despite State decisions to have free States and enslaved States, despite the Missouri Compromise, the Supreme Court in the Dred Scott decision basically came down clearly on the side of

enslavement and said, for example, that the Missouri court doctrine of “once free, always free” did not help Harriet and Dred Scott, who lived in free States part of their lives.

That decision by the Supreme Court was a seminal decision in the history of our country. It is often noted the role that it played and the events that transpired afterward.

I think of that decision when I think of what has happened in recent years in the Supreme Court. Nine years ago, in 2013, the Supreme Court issued its decision in *Shelby County v. Holder*. That Supreme Court decision essentially nullified a key provision of the Voting Rights Act: section 5. Prior to the Court’s ruling in *Shelby County*, section 5 required localities disenfranchising people based on race through poll taxes or literacy tests to seek Federal approval to any changes in their voting rules. That requirement is known as preclearance, and it could have—I believe it would have—prevented many of the restrictive voting laws in Georgia and Texas.

The Supreme Court weakened another key section of the Voting Rights Act with its decision in *Brnovich v. DNC*. With these distorted rulings—in fact, Supreme Court Justice Elena Kagan wrote, “In the last decade, this Court has treated no statute worse than the Voting Rights Act of 1965.”

The Presiding Officer knows what has happened across the United States in 19 different States. I think, because of decisions like *Shelby* and *Brnovich*, these States have been emboldened. They don’t believe that they are going to be held accountable for decisions they are making that restrict the right to vote the way they would have been before those decisions. And those who come to the defense of those States and their practices come to the floor of the Senate and, predictably, argue States’ rights, States’ rights.

I heard over the weekend on some of the talk shows—I don’t know if there is a copy of it here. Oh, there is. I was hoping there would be a copy of the Constitution in this desk, and there is. But article I, section 4 of our Constitution is explicit, for those who question whether or not it is the exclusive province of the States to establish standards for elections. I am going to read it.

Section 4. “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators.”

Of course, then the amendments following the Civil War—during and following the Civil War—went even further in terms of voting and the issue of race.

It is very clear to me—and you only have to read those simple words, straightforward and direct in the Constitution, to realize that establishing

standards for elections is not exclusively within the province of the State. In fact, just the opposite is true. When it comes to Federal elections for Representatives and Senators, authority is given to us—to us—this Senate and the House of Representatives. And, of course, through the signature of the President, the law is created that can establish standards and regulations.

Yet Members on the other side, Members on the side of President Lincoln’s political party, the Republican Party, now come to us at this moment in history and argue nullification and States’ rights. What a cruel twist of fate that Mr. Lincoln’s party, which took such pride in the progress that was made after the deadly Civil War in establishing civil rights, is now defending the activities of 19 different States that restrict voting rights.

Today, our democracy needs the Voting Rights Act of 1965 restored to its full power and potential. In the past year alone, Republican legislatures in nearly 20 States have enacted laws making it harder for Americans to vote. In total, more than 440 bills with voting restrictions have been introduced in 49 States, and more are on the way as the 2022 State legislative sessions get underway. These efforts represent the most coordinated assault on voting rights since the Voting Rights Act was first passed under President Lyndon Johnson.

The most troubling of these bills, the ones that I just find incredible, grant partisan actors the power to potentially meddle and interfere in election administration. Now, where could they possibly have come up with that idea; that if you lose an election, you would contact the election authorities and ask them to change the results for your favor? Where could they have come up with that idea or notion, that outrageous idea? Perhaps in the recording that we have of the conversation between Georgia election officials and President Donald Trump after he lost the election in 2020. That is exactly what he set out to do. And now, they are setting up a scenario for that same strategy and tactic to be followed in other States if you are disappointed with the outcome of an election.

Arkansas and Kansas have already passed laws that—according to experts from the States United Democracy Center, Protect Democracy, and Law Forward—could be used to shift the power to influence election outcomes to partisan political actors. In those States, they have increased the possibility that the voters won’t have the last word.

And legislatures in other States have introduced troubling bills with similar implications. For instance, in the State of Arizona, State legislators introduced three separate bills that, according to the Brennan Center for Justice, “would have directly empowered partisan officials to reject or overturn election results.” It is an incredible outcome.

More traditional attacks on the right to vote include efforts in Michigan, for example, where a group of Republican lawmakers are attempting to bypass the State’s Governor as well as the State’s voters to enact a measure restricting voting rights. And, of course, in Texas, the State enacted a bill known as S.B. 1, which the Brennan Center called “one of the harshest restrictive voting bills in the country.” One of the most troubling provisions of the law will make it harder for voters living with disabilities to receive the accommodations and assistance they need to exercise their right to vote.

The Members of this Senate have a constitutional obligation to respond to these State voting laws, and that means ensuring that the constitutional right to vote is protected by Federal law and fully enforceable. It also means establishing nationwide standards that ensure every eligible voter can participate in our democracy. These remedies and protections must be available in every State, red and blue, from New York to Arizona.

Allow me to make one other point, Mr. President. I have heard my Republican colleagues make the argument: Well, take a look at the States across the blue belt of America, States like Delaware and New York; they don’t go as far as the law that is being suggested by you Democrats—for example, same-day registration, for those who want to show up and establish their voter registration on the day of the election. This bill is going to require it. The State of New York doesn’t have it. The State of Delaware doesn’t have it.

Well, my message to them is: Good. Let them get it. It is a good, positive way to expand the opportunity to vote. Many States have done it for years without problems. Those who are lagging, whether they are red or blue, should come into the 21st century. It should be our mission—our singular mission, before anything else—to make sure that every eligible American has the right to vote; that we eliminate the burdens and obstacles, the tricks and traps that have been set up in all these States that make it so difficult. And we ought to be singularly embarrassed as a nation as we look at the film and all the videos and all the programs on election day that show African Americans standing in line, hour after weary hour, to exercise the right to vote while many White voters just scoot through in other localities in the same States. There is something fundamentally wrong here, and it is not just an accident.

Last year, I joined with a bipartisan group of my colleagues to introduce the updated John Lewis Voting Rights Advancement Act. This legislation would restore and strengthen the Voting Rights Act of 1965, one of the most important pieces of legislation in American history. And truthfully, this should, once again, be a bipartisan, unifying endeavor.

It hasn't been that long ago that Republicans and Democrats stood together and agreed that this was the right thing to do—to make sure that there was no discrimination against American voters. The last time we did this was 16 years ago, in 2006, and on a nearly unanimous basis.

One of the Republicans who voted in support of it was the senior Senator from Kentucky, now the Republican leader, who said at that time, when he voted for the reauthorization of the Voting Rights Act in 2006, “[T]his is a piece of legislation which has worked.”

Well, let's make sure it can keep working. I hope my colleagues will come together, in a bipartisan fashion, and join us in supporting the John Lewis Voting Rights Advancement Act as well as the Freedom to Vote Act. Join us in defending American democracy.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### H.R. 5746

Ms. CANTWELL. Mr. President, I was out here a little while ago talking about why it is so important for us to move forward and vote on the John Lewis Voting Rights Act and to uphold the voting rights of American citizens, something I feel very strongly about.

I have had the good fortune to be in the U.S. Senate since the year 2000 and I got here—I should say the election was in 2000; I took the oath of office in 2001. I got here in an election that was decided by 2,229 votes. It took 3 weeks to decide the election. It took recounts. It took verification by counties—and, yes, the vote-by-mail system which was pretty much the majority of votes at that point in time. Not everybody voted that way, but a big portion of votes at that time was a system that was starting to flourish in our State.

And when I think about the year 2000 and the close election, I give thanks to my predecessor Slade Gordon for, even though it was a close election, not contesting the election. If people remember, that was the same year that there was such a close election that people considered what was the outcome in Florida. And yet Al Gore conceded the election to George Bush.

My point is that where have we gotten to today? Because all of those people, George Bush, Al Gore, me, Slade Gordon, even though we had close elections, we had confidence in the outcome of the election, and we moved forward.

We moved forward so much in fact that when our country was attacked just a few months later, we all pulled

together to work together to build a more secure nation. We didn't sit around and say—Slade Gordon didn't sit around and say, “I lost by 2,229 votes.” Al Gore didn't sit around and say he lost Florida by so many votes and the votes weren't counted.

No, we moved our country forward, and here in the U.S. Senate, we even discussed voting rights, and we discussed our Federal role, and we discussed what reforms we wanted to have in the system to build more confidence in our electoral system. We didn't disintegrate into voter suppression activities. I can't say that there wasn't some.

I now call it nostalgia. There were some who said, “Oh, yeah, vote-by-mail. Maybe we shouldn't have it.” I remember one of our colleagues here on the Senate floor, he was saying, “I so much like to go into the polling place. It is my patriotic duty. I like to sign my name. I like to get on with it. I don't want to get rid of that and I don't like vote-by-mail.”

Well, myself and Senator WYDEN, Senator MURRAY, and others successfully defended vote-by-mail. And we can see today where it has now been more embraced in the United States of America and more than the nostalgia that my friend had.

Trust me, I could say a lot of nostalgia about going into a voting place and voting. My childhood was spent getting the vote out because that is what you did in my family. You spent the day getting the vote out; you helped. I remember 1 year, I said to my father, “I'd miss too much school, and I didn't want to miss anymore school, and I had to go to school on election day.” He told me there was no greater education than getting the vote out and that I was going to be doing that. So I can be nostalgic, too.

But right now, I am proud of the 84 percent turnout in the State of Washington in a Presidential election year, thanks to vote-by-mail. And I am proud that vote-by-mail, I think, is the antidote to the accusations that people have about a voting system that they think can be attacked by a foreign government or undermined in an electronic voting system. The fact that when you vote-by-mail, you sign your name, both on the registration form, sign your name on the mail-in ballot, rip off a tab, basically mail in that ballot, and you have proof that you voted. And your signature is the verification. I am going to talk about that in a minute.

Your signature is the verification that that system works. So, yes, I am not very happy that we are here because a lot of the tactics that we are hearing about around the United States of America is about limiting vote-by-mail. It is about trying to stop it or slow it down or raise accusations about how it doesn't work.

And part of the initial establishment of preclearance in the United States in the 1965 Voting Rights Act was about

the great disparity that existed in the United States between States, that some States had very different turnouts than other States in a Presidential election, maybe 20 percent or 30 percent different. And so people were starting to say, “How are you affecting us if some States aren't really empowering their citizens to vote, and the consequences is suppressing voter activity?”

I definitely believe in the John Lewis Voting Rights Act. I definitely believe that, starting in 1965, we had disparity in States and the way they voted, and we did something about it. And we did something about it because people were being discriminated against, and that was the premise of the law, stop the discrimination.

Stop the discriminatory tactics that States were using to discriminate against people so that their votes couldn't be cast. And now, we have updated that law many times over the last several decades in a bipartisan fashion, most of the time signed into law by Republican Presidents. So I don't get the stumbling block here. I don't get the stumbling block why people won't come to the table and help us write the next version of the 1965 Civil Rights Act that is just called the 2022 Civil Rights Act. I don't get it. I don't get why people aren't coming to the table to do that. But I know this, that one of the big lies out there, and the Republicans—I see my colleague was here from Alaska, and I do feel a great affinity.

People may not understand the relationship between the State of Alaska and the State of Washington, but it is a very true affinity. We come from the same part of the world. Our economies are integrated. We have many people who live in both places. We share commonality of culture, of our environment. And my colleague from Alaska was here talking about their vote-by-mail system.

And so the fact that people are telling lies and trying to suppress the vote by suppressing vote-by-mail or calling it fraudulent is very frustrating. It is very frustrating, and it is one of the reasons we should come together in a bipartisan way and support vote-by-mail. We should be empowering people, and particularly in a pandemic, to cast a vote so that we know their voting is counted, so that we can have confidence we had an election and people spoke.

Here, we have Newt Gingrich who said numerous times now, “The biggest way to expand voter fraud is to expand vote-by-mail.” Now, he said that on FOX News. It has been quoted in the paper—not once, he said it several times—or maybe they keep reading the same clip over and over again.

Then his next line, which I didn't put on a chart, is, “And the Democrats want universal access to vote-by-mail.” Well, I am not sure what is wrong with vote-by-mail. We are going to talk about that because I am not sure what is wrong with vote-by-mail.